

MINUTES  
OF THE  
PERSONAL SERVICES CONTRACT  
REVIEW SUBCOMMITTEE

June 9, 1998

The Personal Services Contract Review Subcommittee met on Tuesday, June 9, 1998 at 10:00 AM, in Room 125 of the Capitol Annex. Representative Marshall Long, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Marshall Long, Chairman; Senators Barry Metcalf and Denny Nunnolley; and Representatives Drew Graham, Bob Heleringer, and Jesse Crenshaw.

Guests: Steve Haviland, Kathleen Schell, and Rex Hunt.

LRC Staff: Michael Meeks, Joseph Hood, and Nancy Smith.

A motion was made by Senator Metcalf and seconded by Representative Graham to approve the Minutes of the May 12, 1998, meeting. The motion passed unanimously.

A motion was made by Senator Metcalf and seconded by Representative Graham to approve the Routine Contract List with the following exception: Contract # 24, between Finance & Administration - Finance/Engineering and Nesbitt Engineering, 980988. The motion to approve the Routine Contract List passed with Representative Heleringer voting NO on contract #1, between Juan Galicia and Agriculture, 980978; and contract #67, between Prentice A. Harvey and Kentucky Retirement Systems, 990005.

A motion was made by Representative Graham and seconded by Senator Metcalf to approve the amendments to the contracts on the Amendment List. The motion passed unanimously.

The following ROUTINE contracts  
were APPROVED:

AGRICULTURE:  
Juan Galicia, 980978.

ARCHITECTS, BOARD OF  
EXAMINERS AND REGISTRATION OF:  
Jerry W. Herndon, 990032; Deborah B. Tune, 990041; Robert W. Bortner, 990043.

ATTORNEY GENERAL,

OFFICE OF THE:

Justice Resource Center, 990039; Consultek International, 980983; David L. Yewell, 990056; David L. Yewell, 980974.

AUDITOR OF PUBLIC ACCOUNTS:

Coopers & Lybrand, 980976; 990059.

BOARD OF DENTISTRY:

Marquetta Poynter, 990085; Robert S. Thompson, 990031.

REGISTRATION FOR PROFESSIONAL  
ENGINEERS AND LAND SURVEYORS,

BOARD OF:

Victor McCauley, 990090; Joe Curd, 990089; Robert S. Thompson, III, 990092; Al L. Matherly, 990088; James Riney, 990091.

ECONOMIC DEVELOPMENT CABINET:

Brighton Engineering Company, 297-0130; Mayes, Sudderth & Etheredge, 297-0129; Jiro Hashimoto, 990038; Meridian Communications, 990050; Cherie H. Guilford, 990053; Stephen C. Schulte, 990054.

EDUCATION, DEPARTMENT OF:

Educational Testing Services, 980969.

FINANCE & ADMINISTRATION -

Finance / Engineering:

Nesbitt Engineering, 980988; MULTI - Landscape Architectural Services, 296-9478 - 296-9491; MULTI - SOAP, 198-9859 - 198-9896.

FINANCE & ADMINISTRATION CABINET -

Facilities Management:

Chapman & Bell, 980989; Kentucky's Auctioneers Association, 995046.

FISH AND WILDLIFE RESOURCES:

National Wild Turkey Federation, 980985; Quail Unlimited, 980986.

GOVERNMENTAL SERVICES CENTER:

Silton-Bookman Systems, 980975.

HEALTH SERVICES, CABINET FOR:

University Health Care, Inc. / Region 3 Partnership Council, 990087; Region 5 Managed Care Organization, 990086; Allen & Company, 980968.

JUSTICE CABINET:

Tilford, Dobbins, Alexander, Buckaway & Black, 980966; Brown, Todd & Heyburn, 980962.

KENTUCKY COMMUNITY AND  
TECHNICAL COLLEGE SYSTEM:

Brown, Todd & Heyburn, 980984; 990094.

KENTUCKY ECONOMIC DEVELOPMENT  
FINANCE AUTHORITY:

PNC Bank, 990062.

KENTUCKY HIGHER EDUCATION  
ASSISTANCE AUTHORITY:

Mapother & Mapother, 98-20.

KENTUCKY HISTORICAL SOCIETY:

Textile Conservation Services, 980948.

KENTUCKY HOUSING CORPORATION:

The Information Connection, LLC, 98-7E.

KENTUCKY LOTTERY CORPORATION:

Tru-Service Network, Inc., 99-97-105; JoAnne Wolfe, 99-97-106; Chip Polston, 99-97-110; Donna Craycroft-Little, 99-97-107; Personal Opinion, Inc., 99-98-300; Masterclean Systems, Inc., 99-97-309; Conliffe, Sandmann & Sullivan, 99-95-101; Russell Training Group, Inc., 98-98-388; Pinkerton's Inc., 99-97-250; GTECH Corporation, 99-109; Information Processing Company, 99-086; Bank One, Kentucky, NA, 98-98-149; Bearden Group, 99-95-060; Bank One, Kentucky NA, 99-96-012; Doe-Anderson Advertising Agency, Inc., 99-96-047; U. S. Postal Service, 99-285; Stoll, Keenon & Park, LLP, 99-95-102; Voice Integrators, Inc., 99-387; Automatic Data Processing, 99-103.

KENTUCKY RETIREMENT SYSTEMS:

William M. Mercer Investment, 990018; 990020; John T. Rawlings, 990004; Stoll, Keenon & Parks, 990014; Lincoln Capital Management, 990011; William P. McElwain, 990003; Prentice A. Harvey, 990005; Paul F. Fauri, 990006; Charles T. Mitchell Company, 990019; Horace W. Addams, 990001; Esten S. Kimbel, 990002; National Asset Management Corporation, 990010; Weaver C. Barksdale & Associates, 990009; Heitman Capital Management Corporation, 990008; Northern Trust Quantitative Advisors, 990013; Investment Counselors of Maryland, 990012.

KENTUCKY STATE FAIR BOARD:

Scarlett W. Mattson, 990047; Harold Workman, 990045; Credit Clearing House of America, 990046.

KENTUCKY STATE POLICE:

Daum & Associates, 990061.

KENTUCKY STATE UNIVERSITY:

Johnson, Judy, True & Guarnieri, 97-03.

KY KARE HEALTH

INSURANCE AUTHORITY:

Health Care Strategies, 980877.

LEGISLATIVE RESEARCH

COMMISSION:

Dr. Joseph Ryan, 98-18; 99-04; Dr. James Catterall, 99-02; 98-16; Dr. Andrew Porter, 99-05; 98-19; Allison J. Maggiolo, 99-07; Dr. Robert L. Linn, 98-21; 99-13; Dr. John Poggio, 98-15; 99-01; Dr. Richard M. Jaeger, 98-20; 99-12; Calvin D. Cranfill C.P.A., 99-10; Lawrence K. Lynch, 99-06; Buck Consultants, 99-08; Augenblick & Myers, 99-09; Shandwick USA d/b/a Commonwealth News Call, 99-11.

MEDICAL LICENSURE,

BOARD OF:

Dan M. Miller, 980808.

MOREHEAD STATE UNIVERSITY:

Kelley, Galloway & Company, Inc., 99-005; Will Keim Speaks! Inc., 99-004.

MURRAY STATE UNIVERSITY:

Industrial Training Services, Inc. , 005-99-2; Frank Fazi, 006-99-2; Patti Freeman, 007-99-2; Sheffer Hoffman LLP, 002-99-2; Earl Abanathy, 004-99-2.

NATURAL RESOURCES AND

ENVIRONMENTAL PROTECTION

CABINET:

KY Rural Water Association, 990052; William F. Grier, 990051.

NORTHERN KENTUCKY UNIVERSITY:

Children's Law Center, 98-312; Dr. Donald Adams, 98-311.

NURSING, BOARD OF :

Potter & Company, 990068.

REAL ESTATE

APPRAISERS BOARD:

M. Wilson & Associates, 990093.

TRANSPORTATION CABINET:

H. A. Spalding Engineers, Inc., Ag# 619798; Brighton Acquisition Company, 980420; TEC, Inc., Ag# 609798; Brighton Engineering Company, Ag# 599798; Palmer Engineering Company, Ag# 589798; Presnell Associates, 980419.

UNIVERSITY OF KENTUCKY:

Pearson / Bender Associates PLC, A981380; Data Systems Network Corporation, K98-164; K99-114; CollegeView, Inc., K98-163; K99-110; DSI, K98-160; Deloitte & Touche LLP, K99-103; Terry Rantell, K98-162; Wyatt, Tarrant & Combs, K99-107; St. Elizabeth Medical Center, Inc., K99-102; Denney, Morgan & Rather, K99-104; Sturgill, Turner, Barker & Moloney, K99-015; Walther, Roark, Gay & Todd, PLC, K99-106; Rambicure, Miller & Kuebler, PSC, K99-108; Whitlow, Roberts, Houston & Straub, 99-109; Berea Hospital, K99-112; St. Claire Medical Center, K99-113; Appalachian Regional Healthcare, Inc., K99-111.

UNIVERSITY OF LOUISVILLE:

Arthur Andersen & Co., 99-4; Susan G. Estep, 99-2.

WESTERN KENTUCKY UNIVERSITY:

Leventhal Senter & Lerman, 4-98; Multi, 5-98; Dr. Frederick L. Obear, 40-97.

WORKFORCE DEVELOPMENT:

Daryl Martin, 990027; James B. Adams, 990024.

The following AMENDMENTS  
were APPROVED:

AGRICULTURE:

Johnson, Judy, True & Guranieri, L.L.P., 980713.

CORRECTIONS,

DEPARTMENT OF:

Victoria Ruth Von Bokern, 980190; Robert Meyer, Ph.D., 980163.

EASTERN KENTUCKY

UNIVERSITY:

OMTI Professional Development Services, 98-052; John Bugbee, 98-037; Travis Fritsch, 98-026.

EDUCATION, DEPARTMENT OF:

Tim LeMaster, 980258; Joyce James, 980632.

FAMILIES & CHILDREN,

CABINET FOR:

Lincoln Trail Domestic Violence Program, Inc., 980231.

FINANCE & ADMINISTRATION

CABINET:

Robert Finnegan, 980783.

FINANCE & ADMINISTRATION -

Finance / Engineering:

Fuller, Mossbarger, Scott & May, 985066; Lee & Garver, P.S.C., Engineers, 985111; McIlwain & Associates, 985130; Dunbar & associates, Architects, 985002; Potter & Cox Architects, 985114; K. Norman Berry, 985124; Sherman-Carter-Barnhart, 985149; Luckett & Farley, 985012; 985013; E. R. Ronald & Associates, 985078; Associated Designers, Inc., 923067; CTI Environmental, 955047; Scott/ Klausung & Co., Inc., 955056; Dunbar & Associates Architects, 985040.

HEALTH SERVICES,

CABINET FOR:

First Steps, KY's Early Intervention Program, 980493; Council for Retarded Citizens of Jefferson County, 980607; Region 5 Managed Care Organization, LLC, 980781; University Health Care, Inc./Region 3 Partnership Council, 980027; W. David Shearer, 980124.

INSURANCE, DEPARTMENT OF:

Bowser-Morner Assoc., 980127.

KENTUCKY COMMUNITY AND

TECHNICAL COLLEGE SYSTEM:

Dr. C. Nelson Grote, 980906.

KENTUCKY LOTTERY CORPORATION:

MULTI (Advertising Production), 98-100.

KENTUCKY RETIREMENT SYSTEMS:

National Asset Management Corporation, 980006; ANB Investment, 980016; Alliance Capital Management, 980020; Investment Counselors of Maryland, 980011.

MURRAY STATE UNIVERSITY:

Boehl, Stopher & Graves, 026-98-2; William M. Mercer, 015-98-2; MULTI (Skill Training Services/Steve Simmons), 016-98-2.

PERSONNEL CABINET:

Frost & Jacobs, 980618.

TRANSPORTATION CABINET:

James-Winstead and Associates, Inc., Ag# 089495; Ag# 019394; Wilbur Smith Associates, Ag# 019293; American Consulting Engineers, PLC, Ag# 269091; Ag# 088687; Law Environmental, Inc., Ag# 619293; American Engineers, Inc., 20198/7978; George K. Cox, 7525; Vaughn & Melton Consulting Engineers, Ag# 549697; Ag# 399596; Ogden Environmental, Ag# 159596; Wicker & Associates, 70774; Palmer Engineering Co., Ag# 029192; Ag#129798; Ag# 319697; Baker Engineering Unlimited, Ag# 389091; J. M. Crawford & Associates, Ag# 419697; Presnell Associates, Ag# 249495; Ag# 579596; Brighton Engineering Company, Ag# 219394; Fuller, Mossbarger, Scott & May, Ag# 119697; Florence & Hutcheson, Inc., Ag# 249495.

UNIVERSITY OF KENTUCKY:

Keane, Inc., K98-141.

UNIVERSITY OF LOUISVILLE:

Future Mold, 98-43.

WESTERN KENTUCKY UNIVERSITY:

Kenneth Lee, 10-97; Medical Center Home Care, 27-97; Leventhal, Senter & Lerman, 11-97.

THE FOLLOWING ROUTINE CONTRACT  
WAS PULLED FROM THE LIST

FINANCE & ADMINISTRATION -

Finance / Engineering.

Nesbitt Engineering, 980988.

Mr. Steve Haviland, Director of Engineering, Finance and Administration Cabinet, discussed the contract with the subcommittee. Chairman Long stated that he pulled the contract because the description stated that the vendor would provide engineering services for the design, supervision, and construction for de-activation and restoration of temporary group mobile home sites in Falmouth and Cynthiana, and questioned the need for a \$50,000.00 contract to de-activate a temporary group mobile home site. Mr. Haviland stated that he is responsible for the states effort to provide temporary housing to displaced families as a result of the March 1997 flooding. The Federal Emergency Management Agency, as a result of the flood, requested that the Commonwealth of Kentucky provide administrative control of the temporary housing program. Governor Patton agreed and requested Finance / Engineering to provide such administrative control. As part of this effort, the agency built two mobile home parks; one in Cynthiana and one in Falmouth, with both sites approximately 47 acres in size. In Cynthiana, the agency leased a site from Bundy

Tubing. In Pendleton County, the agency leased about 47 acres from the Pendleton County Industrial authority. Both property owners specifically stated that the leases were at no cost to the Commonwealth, both leases were for 1-1/2 years, and both property owners wanted the property completely restored to their original condition. The cost of the construction of the two parks, administered and designed by the Corp of Engineers for FEMA through their contract, were 25% of the total cost. Chairman Long asked about the total cost of the project. Mr. Haviland stated that it could be up to approximately 1.8 million dollars. FEMA elected to use the Army Corps of Engineers and their price contract contractor to coordinate construction. The Army Corps of Engineers had employees on site and ready to move immediately. Mr. Haviland stated that they have reached agreements with both property owners that will result in contracts for the total restoration of both parks. The agency will remove the roads, portable water systems, sewer, electrical service, telephone, mail systems, fencing, and all of the other items provided for under the terms of the original contract. The total estimated cost of the restoration may be as much as \$500,000.00, and the agency does not have the capability in-house to provide these services. Mr. Haviland stated that his agency was attempting to minimize the cost as much as possible, and his staff had worked with the Industrial Authority in the area. The park was recently dedicated and named the Paul E. Patton Park.

The next item on the agenda was discussion of the subcommittee policy relating to attorney fees. Chairman Long stated that the subcommittee had been considering the issue of attorney and hearing officer fees, attempting to get an estimate of the market average rate for services. Chairman Long stated that the subcommittee was not prepared to begin discussion of this issue because all interested parties and groups had not responded, but Ms. Kathy Schell was present and asked to make a brief statement about fees for hearing officer services.

Ms. Schell, Board of Claims, made the subcommittee aware a hearing officer with 20 years experience can be paid not more than \$40.00 per hour according to the subcommittee policy, while an associate at a law firm who is defending the claim may be paid up to \$75.00 per hour. The fee for the attorney, who may be practicing with very little experience, is almost twice that of the hearing officer. Ms. Schell stated that the rates had not been increased since 1982, and hearing officers are required to pay for all the long distance telephone calls, postage, copies, mileage, and other expenses. She testified that the prevailing rates with most attorneys are between \$90.00 to \$200.00 per hour and the average attorney bills \$110.00 per hour, and that, after conducting her own research, there was a disparity in hearing officers' pay. The Personnel Board pays \$50.00 per hour, U of L pays \$50.00 per hour, and Special Education pays \$35.00 per hour for opinions and \$50.00 per hour for conducting hearings. She suggested an adjusted subcommittee policy to reflect maximum amounts not exceeding \$100.00 per hour could keep the contracts the same. Representative Crenshaw stated that the 16 year time frame was incorrect. He said that the rate had not increased in 20 to 25 years, which, as he expressed, was grossly unfair. Chairman Long asked if the committee had the right to raise the rates for the hearing



officers. Joseph Hood, LRC staff, stated that the committee could set the guideline, but the Finance and Administration Cabinet sets the rate.

Representative Heleringer made comments concerning a personal service contract with Prentice A. Harvey for \$42,000.00 over a year at \$40.00 an hour for 1,040 hours. He stated that there will be a fiscal impact to the Commonwealth with raising the maximum allowable rate paid to attorneys and hearing officers. Rex Hunt, Finance and Administration Cabinet, stated that the subcommittee reviewed this issue two years ago, but declined to raise the rates. He stated that if the subcommittee members were not prepared to make a decision on the issue immediately, then at the next meeting of the subcommittee, he would present information on the number of attorney contracts and the fiscal impact. Mr. Hunt further stated that there are guidelines, but some contracts are submitted for \$100.00 to \$120.00 per hour, and some even higher. Representative Heleringer stated that if these high rates are being paid, then the Commonwealth should consider hiring more employees, because the state should not pay these people such high rates. Senator Nunnelley asked if the Commonwealth was having difficulty finding hearing officers. Chairman Long stated that state agencies were having difficulty finding attorneys in the Lexington - Louisville area. Senator Nunnelley expressed concern over an issue of the difference in rates for a solo practitioner and a law firm. He stated that he had spoken with Bruce Davis, Kentucky Bar Association, and he feels strongly that there is no justification for the Commonwealth to have the pay differences between the solo practitioner and a law firm. Ms. Schell stated that the Transportation Cabinet uses people employed by the cabinet, but also has private defense counsel. Senator Metcalf commented on the number of law school graduates each year, while Senator Nunnelley offered statistical information on salaries of district, circuit, and appellate judges and hearing officers. Ms. Schell reminded the members of the generous retirement, health and life insurance of judges, along with the fact that all overhead is covered. Chairman Long stated that the subcommittee would consider this matter again at the next meeting.

Chairman Long announced that the next meeting of the subcommittee is scheduled to convene on Tuesday, July 14, 1998, 10:00 a.m. in Room 125, Capitol Annex.

The meeting adjourned at 10:35 a.m.